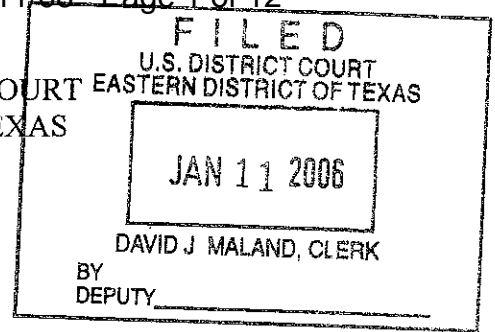


IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
MARSHALL DIVISION



SOFTVAULT SYSTEMS, INC.

Plaintiff,

vs.

YAHOO! INC., MICROSOFT  
CORPORATION, NAPSTER, INC.,  
CREATIVE LABS, INC.,  
DELL, USA, LP, GATEWAY, INC.,  
IRIVER AMERICA, INC., SAMSUNG  
ELECTRONICS AMERICA, INC.,  
TOSHIBA AMERICA CONSUMER  
PRODUCTS, L.L.C., DIGITAL  
NETWORKS NORTH AMERICA, INC.,  
PALM, INC., AUDIOVOX  
CORPORATION, SANDISK  
CORPORATION, THOMSON INC.

Defendants.

Civil Action No. 2-06-CV-17

Jury Trial Demanded

LED

**COMPLAINT**

Plaintiff SoftVault Systems, Inc. ("SoftVault") brings this action against Defendants Yahoo! Inc. ("Yahoo"), Microsoft Corporation ("Microsoft"), Napster, Inc. ("Napster"), Creative Labs, Inc. ("Creative Labs"), Dell USA LP ("Dell"), Gateway, Inc. ("Gateway"), iRiver America, Inc. ("iRiver"), Samsung Electronics America, Inc. ("Samsung"), Toshiba America Consumer Products, L.L.C. ("Toshiba"), Digital Networks North America, Inc. ("DNNA"), Palm, Inc. ("Palm"), Audiovox Corporation ("Audiovox"), SanDisk Corporation ("SanDisk"), and Thomson Inc. ("Thomson"), and for its causes of action alleges:

### **The Parties**

1. SoftVault is a corporation organized and existing under the laws of the State of Washington with its principle place of business in the State of Washington.

2. Upon information and belief, Yahoo is a corporation organized and existing under the laws of the State of Delaware and is doing business in this judicial district and elsewhere. Yahoo may be served with process by serving its registered agent, CT Corporation System; 350 North St. Paul St., Dallas, TX 75201.

3. Upon information and belief, Microsoft is a corporation organized and existing under the laws of the State of Washington and is doing business in this judicial district and elsewhere. Microsoft may be served with process by serving its registered agent, Corporation Service Company; 701 Brazos Street, Suite 1050, Austin, TX 78701.

4. Upon information and belief, Napster is a corporation organized and existing under the laws of the State of Delaware and is doing business in this judicial district and elsewhere. Napster may be served with process by serving its registered agent, The Corporation Trust Company; at Corporation Trust Center; 1209 Orange Street, Wilmington, DE 19801

5. Upon information and belief, Creative Labs is a corporation organized and existing under the laws of the State of California and is doing business in this judicial district and elsewhere. Creative Labs may be served with process by serving its registered agent, Suzanne Rufflo at 1901 McCarthy Blvd; Milpitas, CA 95035.

6. Upon information and belief, Dell is a corporation organized and existing under the laws of the State of Texas and is doing business in this judicial district and

elsewhere. Dell may be served with process by serving its registered agent, Corporation Service Company at 701 Brazos Street, Suite 1050, Austin, TX 78701.

7. Upon information and belief, Gateway is a corporation organized and existing under the laws of the State of Delaware and is doing business in this judicial district and elsewhere. Gateway may be served with process by serving its registered agent, The Corporation Trust Company at Corporation Trust Center; 1209 Orange Street, Wilmington, DE 19801.

8. Upon information and belief, iRiver is a corporation organized and existing under the laws of the State of California and is doing business in this judicial district and elsewhere. iRiver may be served with process by serving its registered agent, Pacific Registered Agents at 5400 Carillon Point, Suite 412; Kirkland, WA 98033.

9. Upon information and belief, Samsung is a corporation organized and existing under the laws of the State of New York and is doing business in this judicial district and elsewhere. Samsung may be served with process by serving its registered agent, CT Corporation at 350 North St. Paul Street, Dallas, TX 75201.

10. Upon information and belief, Toshiba is a corporation organized and existing under the laws of the State of New Jersey and is doing business in this judicial district and elsewhere. Toshiba may be served with process by serving its registered agent, CT Corporation at 350 North St. Paul Street, Dallas, TX 75201.

11. Upon information and belief, DNNA is a corporation organized and existing under the laws of the State of Delaware and is doing business in this judicial district and elsewhere. DNNA may be served with process by serving its registered

agent, The Corporation Trust Company at Corporation Trust Center; 1209 Orange Street, Wilmington, DE 19801.

12. Upon information and belief, Palm is a corporation organized and existing under the laws of the State of Delaware and is doing business in this judicial district and elsewhere. Palm may be served with process by serving its registered agent, Corporation Service Company at 2711 Centerville Road, Suite 400; Wilmington, DE 19808.

13. Upon information and belief, Audiovox is a corporation organized and existing under the laws of the State of Delaware and is doing business in this judicial district and elsewhere. Audiovox may be served with process by serving its registered agent, United Corporate Services, Inc. at 874 Walker Road, Suite C; Dover, DE 19904.

14. Upon information and belief, SanDisk is a corporation organized and existing under the laws of the State of Delaware and is doing business in this judicial district and elsewhere. SanDisk may be served with process by serving its registered agent, CT Corporation at 350 North St. Paul Street; Dallas, TX 75201.

15. Upon information and belief, Thomson is a corporation organized and existing under the laws of the State of Delaware and is doing business in this judicial district and elsewhere. Thomson may be served with process by serving its registered agent, CT Corporation at 350 N St. Paul Street; Dallas, TX 75201.

#### **Jurisdiction and Venue**

16. This action arises under the patent laws of the United States, Title 35 United States Code, particularly §§ 271 and 281 and Title 28 United States Code,

particularly §1338(a). Venue is proper in this Court under Title 28 United States Code §§ 1391(b) and (c) and 1400(b).

### **Claims for Patent Infringement**

17. On June 19, 2001, U.S. Patent No. 6,249,868 (“the ‘868 patent”) was duly and legally issued for “Method and System for Embedded, Automated, Component-level Control of Computer Systems and Other Complex Systems”. A copy of the ‘868 patent is attached as Exhibit A and is made a part hereof. By assignment, SoftVault is the owner of the ‘868 patent and at all relevant times has had the right to enforce the ‘868 patent.

18. On July 15, 2003 U.S. Patent No. 6,594,765 (“the ‘765 patent”) was duly and legally issued for “Method and System for Embedded, Automated, Component-level Control of Computer Systems and Other Complex Systems”. A copy of the ‘765 patent is attached as Exhibit B and is made a part hereof. By assignment, SoftVault is the owner of the ‘765 patent and at all relevant times has had the right to enforce the ‘765 patent.

19. The ‘868 and ‘765 patents, in general, relate to a method and system of protecting an electronic device or its components, software or otherwise. More particularly, certain claims of the ‘868 and ‘765 patent relate to enabling or disabling a component of an electronic device involving via communication with a remote server.

20. Upon information and belief, Microsoft provides software and services under the brand name Windows Media Digital Rights Management (DRM) which have the ability to enable or disable operation of software via communication with a

remote server. By providing such products and/or services, Microsoft has in the past and continues to infringe directly, by inducement, or by contributing to the infringement of the '868 patent, including but not limited to claim 19, and the '765 patent, including but not limited to claims 11 and 12.

21. Upon information and belief, Yahoo provides a music download service under the brand name Yahoo! Music Unlimited ToGo which utilizes Windows Media DRM technology offered by Microsoft. In providing this service, Yahoo is infringing directly, by inducement, or by contributing to the infringement of the '868 patent, including but not limited to claim 19, and the '765 patent, including but not limited to claims 11 and 12.

22. Upon information and belief, Napster provides a music download service under the brand name Napster ToGo which utilizes Windows Media DRM technology offered by Microsoft. In providing this service, Napster is infringing directly, by inducement, or by contributing to the infringement of the '868 patent, including but not limited to claim 19, and the '765 patent, including but not limited to claims 11 and 12.

23. Upon information and belief, Creative Labs manufactures and sells portable electronic devices, such as its Zen line of music players, which utilize Windows Media DRM technology offered by Microsoft. In manufacturing and selling these products, Creative Labs is infringing directly, by inducement, or by contributing to the infringement of the '868 patent, including but not limited to claim 19, and the '765 patent, including but not limited to claims 11 and 12.

24. Upon information and belief, Dell manufactures and sells portable electronic devices, such as its Digital Jukebox (DJ) line of music players, which utilize Windows Media DRM technology offered by Microsoft. In manufacturing and selling these products, Dell is infringing directly, by inducement, or by contributing to the infringement of the '868 patent, including but not limited to claim 19, and the '765 patent, including but not limited to claims 11 and 12.

25. Upon information and belief, Gateway manufactures and sells portable electronic devices, such as its Gateway MP3 Photo Jukebox, which utilize Windows Media DRM technology offered by Microsoft. In manufacturing and selling these products, Gateway is infringing directly, by inducement, or by contributing to the infringement of the '868 patent, including but not limited to claim 19, and the '765 patent, including but not limited to claims 11 and 12.

26. Upon information and belief, iRiver manufactures and sells portable electronic devices, such as its ultra portable players, audio jukebox players and multimedia players, which utilize Windows Media DRM technology offered by Microsoft. In manufacturing and selling these products, iRiver is infringing directly, by inducement, or by contributing to the infringement of the '868 patent, including but not limited to claim 19, and the '765 patent, including but not limited to claims 11 and 12.

27. Upon information and belief, Samsung manufactures and sells portable electronic devices, such as its line of portable MP3 players, which utilize Windows Media DRM technology offered by Microsoft. In manufacturing and selling these products, Samsung is infringing directly, by inducement, or by contributing to the

infringement of the '868 patent, including but not limited to claim 19, and the '765 patent, including but not limited to claims 11 and 12.

28. Upon information and belief, Toshiba manufactures and sells portable electronic devices, such as its Gigabeat line of portable audio devices, which utilize Windows Media DRM technology offered by Microsoft. In manufacturing and selling these products, Toshiba is infringing directly, by inducement, or by contributing to the infringement of the '868 patent, including but not limited to claim 19, and the '765 patent, including but not limited to claims 11 and 12.

29. Upon information and belief, DNNA manufactures and sells portable electronic devices, such as its Rio Forge and Rio Carbon lines of portable audio devices, which utilize Windows Media DRM technology offered by Microsoft. In manufacturing and selling these products, DNNA is infringing directly, by inducement, or by contributing to the infringement of the '868 patent, including but not limited to claim 19, and the '765 patent, including but not limited to claims 11 and 12.

30. Upon information and belief, Palm manufactures and sells portable electronic devices, such as select models of its Palm Treo smartphone, Tungsten handhelds, Zire handhelds, and LifeDrive mobile manager, which utilize Windows Media DRM technology offered by Microsoft. In manufacturing and selling these products, Palm is infringing directly, by inducement, or by contributing to the infringement of the '868 patent, including but not limited to claim 19, and the '765 patent, including but not limited to claims 11 and 12.



31. Upon information and belief, Audiovox manufactures and sells portable electronic devices, such as its SMT 5600 SmartPhone, which utilize Windows Media DRM technology offered by Microsoft. In manufacturing and selling these products, Audiovox is infringing directly, by inducement, or by contributing to the infringement of the '868 patent, including but not limited to claim 19, and the '765 patent, including but not limited to claims 11 and 12.

32. Upon information and belief, SanDisk manufactures and sells portable electronic devices, such as its Sansa M200, which utilize Windows Media DRM technology offered by Microsoft. In manufacturing and selling these products, SanDisk is infringing directly, by inducement, or by contributing to the infringement of the '868 patent, including but not limited to claim 19, and the '765 patent, including but not limited to claims 11 and 12.

33. Upon information and belief, Thomson manufactures and sells portable electronic devices, such as its RCA Lyra series of music players, which utilize Windows Media DRM technology offered by Microsoft. In manufacturing and selling these products, Thomson is infringing directly, by inducement, or by contributing to the infringement of the '868 patent, including but not limited to claim 19, and the '765 patent, including but not limited to claims 11 and 12.

34. As a result of the Defendants' infringing conduct, Defendants have damaged SoftVault. Defendants are liable to SoftVault in an amount that adequately compensates SoftVault for their infringement, which by law in no event can be less than a reasonable royalty.

35. As a consequence of Defendants' infringement, SoftVault has been irreparably damaged and such damage will continue without the issuance of an injunction by this Court.

**Demand for Jury Trial**

13. SoftVault demands a jury trial on all claims and issues.

**Prayer For Relief**

WHEREFORE, SoftVault prays for entry of judgment:

A. That claim 19 of U.S. Patent 6,249,868 and claims 11 and 12 of 6,594,765 have been infringed by Defendants and by others whose infringement has been contributed to and/or induced by Defendants;

B. That Defendants and each of their officers, agents, employees, representatives, successors, assigns and those acting in privity or concert with them be permanently enjoined from further infringement of U.S. Patents 6,249,868, and 6,594,765.

C. That Defendants account for and pay to SoftVault all damages and costs caused by Defendants' activities complained of herein;

D. That SoftVault be granted pre-judgment and post-judgment interest on the damages caused by reason of Defendants' activity complained of herein;

E. That SoftVault be granted its attorneys' fees in this action;

F. That costs be awarded to SoftVault; and

G. That SoftVault be granted such other and further relief that is just and proper under the circumstances.

Respectfully submitted,

Date: \_\_\_\_\_

1/11/06

Ed Goldstein w/p TJW

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